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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0135]

[Docket 2013-0077; Sequence 12]

Federal Acquisition Regulation;

Information Collection; Prospective Subcontractor Requests for Bonds

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection concerning subcontractor requests for bonds.

DATES: Submit comments on or before **[Insert date 60 days after publication in the Federal Register.]**

ADDRESSES: Submit comments identified by **Information Collection 9000-0135** by any of the following methods:

- Regulations.gov: <http://www.regulations.gov>.

Submit comments via the Federal eRulemaking portal by inputting "Information Collection 9000-0135" under the heading "Enter Keyword or ID" and selecting "Search". Select the link

"Submit a Comment" that corresponds with "Information Collection 9000-0135". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 9000-0135" on your attached document.

- Fax: 202-501-4067.
- Mail: General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street, NW, 2nd Floor, Washington, DC 20405-0001. ATTN: Hada Flowers/IC 9000-0135.

Instructions: Please submit comments only and cite Information Collection 9000-0135, in all correspondence related to this collection. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Cecelia L. Davis, Procurement Analyst, Acquisition Policy Division, GSA (202) 219-0202 or email Cecelia.davis@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. Purpose

Part 28 of the FAR contains guidance related to obtaining financial protection against damages under Government contracts (e.g., use of bonds, bid guarantees, insurance etc.). Part 52 contains the texts of solicitation provisions and contract clauses. These regulations implement a statutory requirement for

information to be provided by Federal contractors relating to payment bonds furnished under construction contracts which are subject to 40 U.S.C. chapter 31, subchapter III, Bonds. This collection requirement is mandated by Section 806 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Pub. L. 102-190), as amended by Section 2091 of the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103-335). The clause at 52.228-12, Prospective Subcontractor Requests for Bonds, implements Section 806(a)(3) of Pub. L. 102-190, as amended, which specifies that, upon the request of a prospective subcontractor or supplier offering to furnish labor or material for the performance of a construction contract for which a payment bond has been furnished to the United States pursuant to 40 U.S.C. chapter 31, subchapter III, Bonds, the contractor shall promptly provide a copy of such payment bond to the requestor.

In conjunction with performance bonds, payment bonds are used in Government construction contracts to secure fulfillment of the contractor's obligations under the contract and to assure that the contractor makes all payments, as required by law, to persons furnishing labor or material in performance of the contract. This regulation provides prospective subcontractors and suppliers a copy of the payment bond furnished by the contractor to the Government for the performance of a Federal construction contract subject to 40 U.S.C. chapter 31, subchapter III, Bonds. It is

expected that prospective subcontractors and suppliers will use this information to determine whether to contract with that particular prime contractor. This information has been and will continue to be available from the Government. The requirement for contractors to provide a copy of the payment bond upon request to any prospective subcontractor or supplier under the Federal construction contract is contained in Section 806(a)(3) of Pub. L. 102-190, as amended by Sections 2091 and 8105 of Pub. L. 103-355.

B. Annual Reporting Burden

Based on a Federal Procurement Data System (FPDS) report for the number of new construction contract awards over \$150,000 (simplified acquisition threshold), there were 9,752 contracts awarded for Fiscal Year (FY) 2012. The Government estimated that each contract awarded had an average of 10 subcontractors (9,752 x 10), resulting in a total universe of 97,520 subcontractors. In consultation with subject matter experts, it was determined that 15% or 14,628 subcontractors (unique vendors) would request the required information. Consequently, it was determined that 14,628 unique vendors was a sufficient baseline for estimating the number of respondents that would need to comply with this information collection.

An adjustment is being made regarding the estimated number of five annual responses, which was published in the Federal Register at 75 FR 62540 on October 12, 2010, to a more appropriate estimate of 1 response annually (i.e., the number a subcontractor would request this information). This adjustment results in a decrease of the estimated burden on the public from 15,872.50 hours to 3,657 hours.

Respondents: 14,628.

Responses Per Respondent: 1.

Total Responses: 14,628.

Hours Per Response: .25.

Total Burden Hours: 3,657.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

OBTAINING COPIES OF PROPOSALS: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street, NW, 2nd Floor, Washington, DC 20405, telephone (202) 501-4755.

Please cite OMB Control Number 9000-0135, Prospective Subcontractor Requests for Bonds, in all correspondence.

Dated: September 10, 2013

Karlos Morgan,
Acting Director,
Federal Acquisition Policy Division,
Office of Governmentwide Acquisition Policy,
Office of Acquisition Policy,
Office of Governmentwide Policy.

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